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C O N F I D E N T I A L SECTION 01 OF 02 BRASILIA 000879

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WHA/PPC FOR MICHAEL PUCETTI  
P FOR CYNTHIA ECHEVERRIA

E.O. 12958: DECL: 05/04/2026

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SUBJECT: BRAZIL: POST RECOMMENDS MAINTENANCE OF TIER 2  
STATUS FOR TIP REPORT

Classified By: Charge d'Affaires Phillip T. Chicola for reasons 1.5 (b)  
and (d)

11. (C) SUMMARY. This Mission understands that G/TIP is considering moving Brazil from Tier 2 to the Tier 2 Watch List in the 2006 Trafficking in Persons Report. In our view, Brazil has made considerable progress during the reporting period -- passing legislation that makes TIP a felony, implementing the Palermo Protocol, and increasing the numbers of TIP arrests and freed slave laborers, among other positive steps. In light of this record, downgrading Brazil from its present position on Tier 2 to Tier 2 Watch List would be inconsistent with the facts that we have observed and reported, which demonstrate an ongoing GOB commitment to combat TIP. Moreover, a downgrade could negatively affect ongoing USG cooperation with NGO partners in the USD 6 million Brazil portion of the President's Anti-Trafficking in Persons Initiative -- undercutting programs that are already helping TIP victims in Brazil. In sum, a report that drops Brazil from Tier 2 to Tier 2 Watch List would be factually indefensible, prejudicial to ongoing project activity under the Presidential Initiative, and damaging to bilateral relations. For these reasons, we urge the Department to maintain Brazil's current standing on Tier 2. END SUMMARY.

TIP IMPROVEMENTS IN BRAZIL: A DEMONSTRATED GOB COMMITMENT  
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12. (U) While there is room for improvement, the GOB -- and President Lula himself -- continue to declare Brazil's commitment to attacking TIP in all of its forms. From Federal Police posters warning women against sexual trafficking that are prominently displayed at all Brazilian airports, to vigorous criminal investigations of trafficking networks (some in conjunction with U.S. agencies), to highly-publicized government raids on farms using slave labor, the signs of Brazilian commitment to fighting TIP are visible nationwide, and the issue is prominently and frequently covered in the media. During the reporting period, Brazil:

-- Revised its legal code, expanded the definition of TIP, provided stricter penalties for TIP offenders, made TIP a felony, and criminalized the trafficking of men (Note: Additional TIP-related legislation is pending before Congress, including legislation to expropriate land without compensation from farm owners who employ forced laborers. End Note). All of these actions were taken as part of Brazil's ongoing effort to implement fully the provisions of the Palermo Protocol, which it ratified in January 2004. The Brazilian Constitution (Article 45, Section 3) states that, "international treaties and conventions will be equivalent to constitutional amendments." By ratifying the Palermo

Protocol, the GOB accepted the internationally agreed upon definition of TIP contained therein and recognized as crimes all forms of Trafficking in Persons listed in the Protocol.

-- Increased arrests in all forms of trafficking and freed the second highest number of slave laborers in recent memory.

-- Increased cooperation with foreign governments, including the USG, to investigate and prosecute TIP offenders.

-- Increased cooperation with the USG, international organizations, and NGOs, to implement judicial reform and victims assistance projects under President Bush's USD 8 million Anti-Trafficking in Persons Initiative.

#### FORCED LABOR

13. (U) Per earlier instructions from G/TIP, we have focused much of our effort in Brazil on addressing TIP issues relating to sexual exploitation, and the GOB has cooperated with us. The recent U.S. Congressional change in focus from sexual exploitation to forced labor was formalized in the Trafficking Victims Reauthorization Act of 2005, which was passed on December 14, 2005 -- in the last quarter of the TIP reporting period. Hence we believe the GOB should not be penalized on that count. Moreover, the GOB is already committed to fighting forced labor: It is the first country in Latin America to create and implement a national plan to eradicate forced labor, and both the ILO and the UN have praised Brazil for its efforts. Brazil has increased Ministry of Labor Mobile Inspections despite budgetary constraints, and in the past year, freed the second largest number of slave laborers in recent memory. It may be true

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that about 25,000 victims are involved in forced labor, but the number must be seen in context. Brazil has a population of approximately 187 million and an estimated work force of 90 million. From a strictly statistical perspective, forced labor is not widespread, and again, the GOB is taking active steps to attack the problem.

#### BRAZIL'S CONVICTION RATES

14. (U) Using conviction rates as a prime indicator of Brazil's progress on TIP is misleading. Conviction rates for many capital crimes in Brazil are low (e.g., about six percent of homicide arrests lead to convictions), and are a reflection of a criminal justice system with major systemic problems across the board, not a lack of governmental interest in TIP crimes per se. Moreover, before the 2006 revision of the legal code, human trafficking was so narrowly defined that it was often difficult to arrest and convict TIP offenders. As a result, Brazil reported low conviction rates during the reporting period. Since the passage of the new laws earlier this year, Brazil's arrest rates have increased significantly, and the logical trend will be upward. Despite Brazil's systemic judicial problems, the GOB has shown that there is a serious ongoing effort at the federal level to attack the problem by revising its legal code on TIP issues.

#### TIER 2 WATCH WOULD DAMAGE BILATERAL RELATIONS

15. (C) The GOB and NGO community here would be surprised by a sudden downgrade. The Foreign Ministry has informed us on several occasions that a downgrade in Brazil's TIP status would affect the bilateral relationship. It is also the assessment of our USAID section here -- which leads in working with NGOs on the Presidential Initiative projects -- that a downgrade would prejudice receptivity to their efforts. Under the President's Initiative, approximately USD 7.6 million in funding have been disbursed to combat forced labor, TIP for sexual exploitation, and increase assistance

to victims. More than USD 6 million of this funding requires direct cooperation with the GOB. Downgrading Brazil at this point would send the wrong message and jeopardize over USD 6 million of the Initiative's funds.

COMMENT/RECOMMENDATION

16. (C) While more work needs to be done to combat human trafficking, this Mission does not believe that Brazil's progress and achievements during the reporting period warrant a downgrade to Tier 2-Watch List. Such a rating would be inconsistent with the GOB's efforts to address the issue, and carry with it significant consequences for ongoing efforts to assist TIP victims, as well as bilateral relations. This Mission recommends that Brazil retain its current placement on Tier 2.

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